

CHAPTER NO. 32

HOUSE BILL NO. 1954

By Representative Tidwell

Substituted for: Senate Bill No. 1949

By Senator Herron

AN ACT to amend Chapter 541 of the Private Acts of 1939; and any other acts amendatory thereto; and to repeal Chapter 9 of the Private Acts of 1973, relative to the Benton County budget.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 9 of the Private Acts of 1973, is repealed.

SECTION 2. Chapter 541 of the Private Acts of 1939, is amended by deleting Sections 1 through 16 in their entirety and by substituting instead the following:

Section 1. The following definitions apply to the terms used in this Act:

(1) The term "budget" when used in this Act shall mean the appropriation of money appropriated by the County Commission for each department or activity of Benton County for the period shown by the adoption of the budget by the County Legislative Body and any appropriation authorized by statute.

(2) The term "official of the county" when used in this Act shall mean any official authorized by the County Legislative Body or the statutes of the State of Tennessee to draw from the Trustee and expend money of Benton County.

(3) The term "budget committee" when used in this Act shall mean a committee of five (5) members appointed or elected by the County Legislative Body of Benton County as hereinafter provided.

(4) The term "expenditure" or "expend" when used in this Act shall mean the act of committing Benton County to expend monies then and there in the Office of the County Trustee or to come into the office of the County Trustee of Benton County.

(5) The term "commission" when used in this Act shall mean the County Legislative Body of Benton County, Tennessee.

Section 2. The Budget Committee shall consist of not more than five (5) members who shall be appointed by the Chairman and confirmed by the County Legislative Body. The Budget Committee is to receive as compensation for their services in the preparation and supervision of the making of the budget a per diem fee as set by the County Legislative Body each fiscal year.

The Budget Committee shall have the power and authority to employ such help and assistance as may be necessary to properly prepare and work out the budget and to do the matters and things in connection with said work and in preparation of said budget, as required by this Act, and to fix the wages or pay

for the services of such help and assistance as may be employed for that purpose.

Section 3. Immediately after the second Monday of March, the Budget Committee of Benton County shall begin the preparation of a budget, containing a complete plan, itemized and classified according to function and activity of all proposed expenditures and all estimated revenues by sources, including borrowings by or for the county, for the ensuing appropriation year, which shall begin on the first day of July of each year, or at such other date as may be provided for by law, for the beginning of the appropriation year. Opposite each item of proposed expenditure, the budget shall show in separate parallel columns the amount appropriated for the preceding appropriation year, the amount expended during that year, the amount appropriated for the current appropriation year, and increases and decreases in the proposed expenditures for the ensuing year as compared with the appropriation for the current year. This budget shall be accompanied by:

(1) A statement of the contemplated revenues, including borrowings, of Benton County for the ensuing appropriation year; and

(2) An itemized and complete financial balance sheet of each fund account of Benton County, at the close of the last preceding appropriation year.

Section 4. A brief synopsis of the budget, as prepared by or under the supervision of said Budget Committee, shall be posted at one (1) or more public places in said county, including the bulletin board at the courthouse door, and a copy thereof shall be furnished to each County Commissioner and notice given of one (1) or more public hearings, at least five (5) days prior to the date of such hearing, at which citizens of said county shall have the right to attend and state their views thereon. The Budget Committee shall submit said budget to the County Commission at such time as will allow the Commission to adopt the budget at or prior to the July meeting with recommendation for adoption of said budget as may be agreed upon by the committee. However, it shall not be mandatory upon the commission to adopt the budget recommended by the Budget Committee, but if said budget is not adopted, the County Legislative Body shall prepare and adopt a budget of its own, using the budget estimate as a basis, but appropriating such sums as the Commission may deem proper for the expenses listed under subdivision (2) of Section 5 of this Act, whether greater or less than the budget estimate, but no appropriation recommended by the budget estimate under subdivisions (1) and (3) of Section 5 of this Act shall be reduced by the Commission and the taxes levied for such appropriations may be over and above all other taxes authorized or limited by law, and the Commission shall by appropriate order, adopt and enter upon the minutes of the Commission a budget covering all expenditures for the county for the next appropriation year, itemized and classified as required by Section 3 of this Act.

It shall be mandatory upon the County Legislative Body to adopt a resolution or fix a tax rate, levying upon all property subject to taxation within the county, and basing such levy upon the current tax collection experience of the preceding fiscal year, such rate of tax as may be required to produce the sum necessary to balance the budget upon a cash basis. In order that the current tax levy shall be truly based upon the current tax collection experience of the preceding year, such current tax levy shall be determined by dividing the sum necessary to be raised in order to balance the budget, by a percentage which does not exceed the percentage obtained by dividing the amount of current taxes

collected in cash in the preceding fiscal year, by the amount of the taxes levied and payable in such preceding fiscal year.

Section 5. The sum necessary to balance the budget as provided in Section 4 of this Act, shall be ascertained by adding the appropriation included in said budget, which shall be as follows:

(1) The full amount required for interest on the indebtedness of the county and for sinking funds for the retirement of the bonded indebtedness of the county as it matures in an orderly and systematic financial way, and for the principal payment of serial bonds maturing during the fiscal year.

(2) The amounts required and appropriated for the fiscal year for the expense of conducting and/or operating each department, division, office or board and the subdivisions of each.

(3) The amount of any cash deficit, being the sum of all outstanding and unpaid bills or other lawful obligations and all amounts payable to all special funds of the county at the close of the last preceding fiscal year incurred for debt or other lawful charges in connection with the operation of the county to the extent that such sums exceed the cash on hand or on deposit to the credit of the general funds of the county in relation to expenditures for strictly county general expenses; and the school, highway and other funds, for those purposes, and by deducting therefrom, the estimate of the cash receipts to be available during the current year, from the taxes and miscellaneous revenue.

Section 6. The Budget Committee of Benton County may require the heads or other responsible representatives of all departments, divisions, boards, commissions, agencies or offices of said county, to furnish such information as may be deemed advisable and in such form as may be required in relation to their respective affairs and activities.

Section 7. The County Legislative Body shall cause to be made out immediately preceding the July meeting of said Commission in each and every year hereafter a statement showing the aggregate amount of the receipts and itemized disbursements of the twelve (12) month period ending on June 30. A copy of such statement shall be posted on the bulletin board at the courthouse door of said county.

Section 8. It shall be the duty of the School Board and County Superintendent of Benton County, to prepare and file with the Budget Committee, an itemized statement or budget, as specified in Section 3 of this Act, and figured and ascertained in accordance with the provisions of Sections 4 and 5 of this Act, of the funds which said board and superintendent estimate will be necessary for the maintenance and operation of the schools and expenses incident thereto for the year commencing the first day of July following the filing of such statement or budget, so that said school budget may be presented to the Commission by the Budget Committee along with the regular county budget.

Section 9. The County Legislative Body shall include in the county budget required by law and as a part thereof, a budget for the schools of the county, using such recommended budget estimate as a basis, but appropriating such sums as the commission may deem proper therefor fixing the amounts

necessary for said purposes, and levying the taxes covering such proposed expenditures in the same manner and by the same method as that contained in Sections 4 and 5 of this Act.

Section 10. It shall be the duty of the County Executive to install and maintain or to cause to be installed and maintained a set of accounts as prescribed by the County Legislative Body and this Act, classified according to functions and activities, which will at all times reveal the amount appropriated, the amount expended to date chargeable against such appropriations and the unexpended balance of such appropriations. Furthermore, it shall be the duty of each and every official of the county, before making an expenditure for any purpose whatsoever, whether it be for personal services, contracted services, materials and supplies, equipment, bounties and claims, pensions and relief contributions, or debt service, to issue or cause to be issued to the county executive a requisition, and to receive from the County Executive a purchase order, which among other things, shall show the unexpended balance of the appropriation against which such purchase order or requisition has been charged.

Section 11. If any official of Benton County who has the power, right or authority to expend county funds from the County Trustee or funds coming into the County Trustee from the State of Tennessee expends any sum in excess of the monies or funds then and there actually in the County Trustee to the credit of his department of the county government or in excess of the budget adopted by the County Legislative Body covering that certain period of time as shown by the budget, such county official making any overdrafts of the County Trustee or commitment in excess of the amount appropriated for the specific purpose for which the expenditure was made by the County Legislative Body of Benton County, shall be personally liable, together with the sureties of his official bonds, to Benton County for such overdraft, and/or the payee of any such warrant for the full amount of such overdraft or over-expenditure, and the county and/or payee of any such warrants, shall have cause of action of debt to recover from such official or officials and their bondsmen, the amount of the overdraft or over-expenditure, with interest from the date of issuance of such warrants.

Section 12. It shall be unlawful for any official and/or employee of Benton County, to draw, sign, issue, deliver, or to authorize the drawing, signing, issuance or delivery of any purchase order, warrant, or other commitment during the appropriation year when such warrant, purchase order or other commitment, added to the amounts previously expended, shall exceed the appropriation made by the County Legislative Body for the specific purpose for which the expenditure is made. A violation of this Section shall be punished as official misconduct pursuant to § 39-16-402. It shall be mandatory upon the members of the County Legislative Body to determine whether or not warrants or purchase orders, or other commitments have been issued or made in violation of the intent of this Act, and if warrants, purchase orders or other commitments are found to have been issued in violation of the intent of this Act, it shall be mandatory upon said Commission or its qualified representative to certify the facts to the District Attorney General for presentation to the Grand Jury at the next term of the Circuit Court, and it shall be the duty of the District Attorney General to present facts to the said Grand Jury and to institute such other proceedings that may be necessary to give full effect to the provisions of this Act.

Section 13. It shall be unlawful for any official of the county, including the School Board, the Highway Superintendent, the County Superintendent, the County Executive, the County Clerk, Circuit Court Clerk, the Sheriff, the Trustee,

the Register of Deeds, the Clerk and Master, the Property Assessor, or any other official of the county to violate any provision of this Act, to fail or refuse to perform any of the duties placed upon them or any of them by this Act, and any such official, or officials failing to perform the duties imposed by this Act, or otherwise violating this Act, or who procures, aids or abets in violation of any provision of this Act. Any violation of this Act shall be punished as official misconduct pursuant to § 39-16-402, provided further, that any county official convicted under this Act, shall be subject to removal from office under the ouster laws of the State of Tennessee, and it shall be mandatory upon the County Legislative Body to appropriate the necessary funds for the prosecution of such case.

Section 14. Appropriations for which no provision was made in the budget as adopted, shall be made only from any surplus resulting from an unappropriated balance of the tax rate, and then only by a two-thirds (2/3) majority vote of the members of the County Legislative Body.

Section 15. The holding of any section or part thereof, or any subsection, clause or phrase of this Act, to be void or ineffective for any cause shall not in any way affect any other section or part thereof in this Act. It is hereby declared, and shall be conclusively presumed that this Act and each section, subsection, sentence, clause and phrase thereof would have been passed and enacted, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases thereof be declared unconstitutional or void or ineffective for any cause.

Section 16. All laws and parts of law in conflict with the provisions of this Act be and the same are hereby repealed, and this Act shall take effect from and after its passage, the public welfare requiring it.

SECTION 3. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Legislative Body of Benton County. Its approval or non-approval shall be proclaimed by the Presiding Officer of the County Legislative Body and certified to the Secretary of State.

SECTION 4. For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 3.

PASSED: May 6, 1999


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 17th day of May 1999


DON SINGQUIST, GOVERNOR